

BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH

IN THE MATTER OF THE FIVE YEAR)
PERMIT RENEWAL FOR THE DEER) CAUSE NO. ACT/015/018
CREEK MINE, PACIFICORP, EMERY)
COUNTY, UTAH.)
_____)

WEDNESDAY, MARCH 20, 1996, COMMENCING AT THE HOUR OF 1:30
P.M., THE INFORMAL CONFERENCE WAS HELD IN THE ABOVE MATTER
BEFORE JAMES CARTER, DIRECTOR OF THE DIVISION OF OIL, GAS
AND MINING, 355 WEST NORTH TEMPLE, 3 TRIAD CENTER, SUITE
520, SALT LAKE CITY, UTAH 84180-1203.

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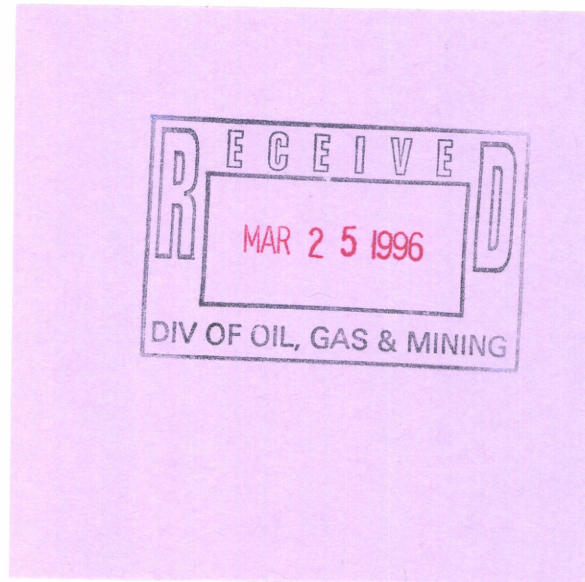
REPORTED BY:
LINDA J. SMURTHWAITE, CSR, RMR

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APPEARANCES

CHAIRMAN: JAMES CARTER



1 Salt Lake City, Utah, March 20th, 1996, 1:30 P.M.

2 MR. CARTER: Good afternoon. Let me make a few
3 preliminary comments and put this matter on the record
4 and so forth. You'll notice we're making a transcript
5 of the proceedings. We've begun doing that even though
6 we're calling these informal conferences because we want
7 to be able to look at the record and make some
8 conclusions and findings at the end, and I think it's
9 important to have a written record so that there is no
10 confusion about what everyone had to say.

11 This is a request by the Huntington Cleveland
12 Irrigation Company for an informal conference on the
13 application for renewal of coal mining permit
14 ACT/015/018 for the Deer Creek Mine.

15 Huntington Cleveland is here and represented by
16 Craig Smith. Let me ask that anyone who is interested
17 in providing information or comment, identify themselves
18 at this point, and tell us who they are affiliated
19 with.

20 MR. SMITH: I'll just make some comments. I'm Craig
21 Smith, and I'm sure there are others who are here as
22 well for all sides, I guess for everybody.

23 MR. CARTER: Okay. Anyone else who knows they'll be
24 making a presentation?

25 MR. KIRKHAM: Mr. Carter, I'm John Kirkham appearing

1 for Pacificorp. We're really just here to hear the
2 comments and see what the concern is.

3 MR. CARTER: All right. Thank you. And this is not
4 to preclude -- as I said this is informal and we won't
5 be precluding comments. You don't need to identify
6 yourself now, but if you think you have something to say
7 or tell us, there will be an opportunity for that and
8 you can identify yourself then.

9 MR. JOHANSEN: You've answered my question, any time
10 I want to I raise my hand.

11 MR. CARTER: That was Mr. Eugene Johansen.

12 As I said, this is an informal conference and the
13 purpose of the informal conference is to take
14 information on the process that the Division is
15 currently in, which is to review the permit for
16 renewal. I won't belabor the conditions under which we
17 renew permits, but a permit term is for five years.
18 Every five years the permit comes up for renewal,
19 there's public notice, and an opportunity to comment on
20 the permit at that time. And having said that, I'll
21 turn this over to Mr. Smith.

22 MR. SMITH: Thank you, Jim.

23 MR. CARTER: And let them tell us what you'd like to
24 say.

25 MR. SMITH: I'm sure if I don't say all the right

1 things other people with me will fill in and help with
2 that.

3 I'm Craig Smith, I work with the law firm of Nielson
4 and Senior I'm representing the Huntington/Cleveland
5 Irrigation Company. I'll say that to get that all on
6 the record.

7 We're here more to comment, I think, on process than
8 anything else. We're not here because we have any --
9 well, we'll talk about some concerns of water in the
10 Deer Creek Mine. But, you know, I want to point out for
11 the record that Pacificorp, in our experience with them,
12 has been a very responsible corporate citizen,
13 responsible in the water situation -- we had a situation
14 in Rilda Canyon a year or two ago. These things all
15 blend together in my mind, help me if someone can give
16 me a better date.

17 But there was a concern about some interference and
18 we were able to, through some expansion of the Deer
19 Creek facilities, I think -- is that Deer Creek, John?

20 MR. KIRKHAM: Yes.

21 MR. SMITH: Rilda Canyon, and they were responsible
22 and worked well with us so we were able to resolve
23 that. And so I, you know, I know they're concerned
24 because we submitted comments on their renewal. And as
25 I say, we do have some concerns ourselves, but it's more

1 -- we're here more to talk about the leasing process in
2 general, and renewal of permit process in general, and
3 how we would hope to improve that process, to better
4 help address the needs we're very concerned about which
5 are obviously the water needs, and we understand that's
6 just one piece of the pie. And Jim, you, as head of the
7 Division have many other concerns, but we've at least
8 tried to be a squeaky wheel and I think we've been
9 somewhat successful in being the squeaky wheel on the
10 water side.

11 But I don't -- on the other hand, while I say we are
12 sort of like the squeaky wheel, I don't think you can
13 over emphasize the critical importance of water in this
14 state, and especially in the region of Emery county
15 where all of the water sources are located within the
16 same stratigraphy, and where the coal is found.

17 We don't have, like they do in Salt Lake valley,
18 where you can just drill a well somewhere in the valley
19 floor. And like most of the special service districts
20 and municipalities do have wells in the valley floor and
21 are able to find good quality water, that is not the
22 case in Emery County. The good quality water is found
23 in the mountains, comes from springs, seeps, snow melt,
24 are the same places where the coal is found.

25 We began an effort several years ago to address what

1 we -- we became increasingly concerned about water
2 quantity and water quality problems arising from coal
3 mining. It's not that coal miners do anything
4 particularly different there than anywhere else, it just
5 happens to be that when you're mining coal, you
6 intercept water. You use water underground and you have
7 the opportunity, and obviously the duty, to move water
8 around or else your mine will flood. So you move water
9 underground. In your mind you have mechanized things
10 and you have the opportunity to interfere with the water
11 quality as well as quantity if you're not careful. And
12 so, it's not surprising that as mining has increased,
13 and particularly as we've seen mining change
14 dramatically in the last few years, and this is nothing
15 new to the Division, in the change from continuous
16 miners to the long wall mining that seems to move much
17 more quickly and cover much larger areas at a time,
18 dramatic impacts on water.

19 We have been involved with a number of mines. Many
20 of these issues have been brought before the Division
21 over concerns about impacts on particularly water
22 quantity, water quality and I don't know need to go into
23 each of those in detail. I think the Division is aware
24 of those and we have had varying success. We began an
25 effort to try to move the arena from us as mutual water

1 companies, as districts, as small water purveyors, to
2 try to make the system be more successful in managing
3 itself; the system being the regulatory system that's
4 managed by the Division.

5 One of the problems that we initially discovered
6 was, you know, there was at least some gray area between
7 authority of the state engineer's office, and the
8 Division of Water, and as this is a conference I think I
9 can at least get the right to ask you some questions,
10 Jim, and maybe not do all the talking, but I'd like to
11 get your views as to that issue, if that's been resolved
12 or where that is to being resolved as to who has
13 jurisdiction, who has authority, who has primacy, in
14 dealing with this issue of mining and water and
15 potential interference with water rights by mining
16 between your Division and the Division of Water Rights.

17 MR. CARTER: Let me answer this. It's going to have
18 to be relatively generic because we have pending matters
19 and issues, so I don't want to get too specific. But
20 this gives me an opportunity to say what I was going to
21 put on the record anyway, and that is one of the primary
22 objectives of the whole regulatory program is to prevent
23 material damage to the hydrologic balance. That's right
24 in the regulatory program. So, in looking at mine
25 applications and reviewing the monitoring data we

1 receive, all the operations have to submit to us, we're
2 measuring that information and all that data against
3 that standard. Do we see any evidence here that
4 material damage is occurring to the hydrologic balance?

5 So we're looking at it, the coal regulatory program
6 is looking at it as an environmental impact issue, one
7 of the environmental impacts of mining. There's nothing
8 in the coal program that lets us consider or asks us to
9 consider property rights, or rights in the use of water,
10 or rights to have water come to certain places or not be
11 intercepted between two points. What we're looking at
12 is overall hydrologic balance. So our plan date is
13 limited somewhat, and the questions that have been
14 raised that relate to hydrologic balance, but also to
15 water rights, present issues for us that we don't have
16 complete jurisdiction to resolve. And this is a round
17 about answer. I'm not sure that what the state engineer
18 views his jurisdiction as being, but I do know
19 historically the engineer has avoided attempting to make
20 determination, factual determination about water rights
21 based upon things happening underground. And as you and
22 I both know the Spiro (sic) tunnel litigation which went
23 over 50 years or so, 40 years, is a good case in point.
24 The engineer there said these folks are interested in
25 the water are going to have to figure this one out

1 themselves. But the program, the coal program clearly
2 requires us to mitigate or to minimize impacts to the
3 hydrologic system and certainly requires us to prevent
4 material damage to the hydrologic balance.

5 So to the extent concerns are raised about the
6 impacts of mining on hydrologic balance, we can squarely
7 address those. And if mining in an area is dewatering a
8 stream, we have the ability to address that.

9 I'll just say parenthetically, after looking at your
10 letter, I'm not sure that transbasin diversions fall
11 within material damage to hydrologic balance. I guess
12 I'd be willing to have someone talk to me about that or
13 provide us information or opinions about that. But I
14 really do believe that the Division has complete
15 authority to address the environmental impacts of mining
16 including hydrologic, but has almost no authority to try
17 to adjudicate -- I shouldn't say adjudicate, to try to
18 address water rights' interests. It's really only the
19 environmental impact I think we can legitimately deal
20 with. I don't know if that's helpful or not.

21 MR. SMITH: Well, it is helpful. And to understand,
22 as I say, we look at this as a process, and we still
23 feel like we have some steps to go and we understand you
24 have your limitations. We also understand that the
25 state engineer has declined to address use, of even the

1 use of water let alone even if we set aside the
2 incidental diversion of water by mine dewatering. I
3 believe the state engineer, at least my understanding,
4 has also declined to address the actual use of water
5 inside a mine, and/or to require mining companies to
6 acquire water rights to use water inside a mine.

7 And, you know, we're still looking to try to have a
8 unified approach where there's not a -- where we can get
9 rid of the seam or crack, whatever you want to call it,
10 between your and the state engineer's authority. And it
11 doesn't matter where we go, whether it's here or the
12 state engineer to have someone take responsibility for
13 water. And I think in a large part you do, because as
14 you say, the environmental aspects, and I guess that's
15 an interesting question of whether if you're taking
16 water out of one stream or spring through mining, and
17 enhancing the flow in another, which happens -- one
18 happens to be in Huntington Creek and the other one
19 happens to be in Cottonwood Creek, you know, obviously
20 from a water rights, and I know you know water rights
21 very well Jim because we practiced water law together,
22 from a water rights standpoint that's a very serious
23 thing. Whether that's a serious thing from an
24 environmental standpoint, maybe that's another
25 question. But I think that's something that needs to

1 continue to be explored and our effort here is to try to
2 continue the dialogue and continue the efforts to
3 address these problems and concerns that we have. And
4 so it's helpful to get, you know, your thinking and
5 where the Division is at this particular moment.

6 MR. CARTER: Let me just add one thing that may be
7 somewhat clarifying. I think to the extent the Division
8 makes factual determinations about what's happening
9 hydrologically, cause and effect relationships between
10 mining activities and hydrologic impacts, I believe the
11 state engineer will not second guess the Division's
12 judgment about what the impact is, what that means in
13 terms of water rights or property interests, that I
14 think is completely in the purview of the engineer. And
15 it may be that as the Division, as we move through these
16 specific issues, and as the Division and Board make
17 determinations about whether there is or is not causal
18 effect or impact, the engineer may well decide to
19 utilize or rely on that information in adjudicating
20 property rights.

21 MR. SMITH: One point, Jim. There was a, and I
22 think this is getting more into a conversation which I'm
23 not here, and I don't think anybody's here to listen to
24 me speak, so it's helpful. There was some discussion
25 about coming up with a memorandum of understanding

1 between the two Divisions, between you and the state
2 engineer. Has that never gone to fruition or what's
3 ever happened to that effort?

4 MR. CARTER: I'll tell you what my perspective is.
5 My view was that in the event the legislature created a
6 new remedy for water users, which was the remedy of
7 replacement which didn't happen in this session because
8 of a variety of issues, and everyone has a perspective
9 of what happened or didn't happen, but in the event the
10 Division had the ability to make a factual finding that
11 this mining affected this water supply, and that the
12 result was the people who relied on this supply were
13 entitled to replacement, we would -- that's as far as we
14 would go. It seemed to me to make sense then to have
15 some sort of segway (sig) between that factual finding
16 and determination, and ordering a remedy. And what the
17 state engineer would then do with that or could do with
18 that, or what a person who had an interest in the source
19 could do was go to the engineer. It seemed to me to
20 make some sense to bridge the gap between the two
21 instead of saying there is an effect on this source,
22 you're entitled to replacement in this quantity, and
23 then just drop it. But that didn't happen. So I don't
24 think that -- we believe we still have the ability to
25 order that remedy, but not endear the energy policy act

1 provision. So MOU at this point would seem to me to be
2 premature. I'm not sure what we would do, what the
3 subject would be.

4 MR. SMITH: Okay. So that's something that if the
5 law was to change, I guess that's what you would then
6 address if say that -- I can't remember the law's bill
7 number that didn't, obviously didn't pass, but I
8 understand is on interim study is what I understand, if
9 that were to become law at the next session of the
10 legislature that would reopen the issue with the state
11 engineer, is that it?

12 MR. CARTER: I think it would. We're getting maybe
13 a little beyond the renewal. John's not jumping up and
14 down, but we'll come back to that. But the interim
15 study may be an opportunity for divisions like this with
16 the operators, with other interested parties, and there
17 were some folks who appeared during the course of the
18 legislature I wasn't aware they were interested until
19 they said they were. The interim study may offer a
20 vehicle for having these kinds of discussions about how
21 should a -- assuming there's a remedy created, what
22 should the remedy cover and how should the various
23 agencies of the Department of Natural Resources interact
24 with each other in a way that doesn't either get us in
25 to other jurisdictions, but also provides the complete

1 relief that is contemplated under the energy policy
2 act.

3 MR. SMITH: Yeah. I know we're moving far afield
4 and I apologize to the people from Pacificorp if they
5 came to listen to all about their mine, because we --
6 like I say, we think this interlocks with bigger issues
7 and that's -- we'll get back to their mine in a minute.

8 Speaking of the legislation going on, since we're on
9 that issue now, is there going to be any kind of an
10 interim study group or work group, whatever you want to
11 call it, formed to task force, as there was under the
12 water forfeiture statute, under the interim study?
13 There was a group of different interests that were to
14 come, to help come to a compromise or come to an
15 agreement as to what the form of the bill should be,
16 even though once it got back to the legislature they
17 went ahead and changed it anyway. Is that contemplated
18 for this bill?

19 MR. CARTER: I think the Division believes that the
20 legislation is needed and so the Division wants to
21 either facilitate discussions among interested groups
22 and stay out of it, or convene discussions of interested
23 groups and the Division. You know, we're -- maybe I
24 ought to ask John.

25 MR. KIRKHAM: Let me kind of suggest, we are on the

1 record with respect, even though it's an informal
2 conference, with respect to a specific permit renewal
3 process. If we want to talk about generic procedures
4 and pending legislation and how we resolve some of those
5 issues, I think that's a fine conversation to have, but
6 I don't know that it's appropriate in the context of a
7 proceeding that really is addressing Pacificorp's
8 permit, which is really of significance to Pacificorp
9 and I know the water is significant to the water users.
10 And so why don't we have that conversation in another
11 context, but not in the forum that's been chosen right
12 now.

13 MR. CARTER: The editorial comment I was going to
14 make, and I'll throw it out now, is that the Division --
15 my own sense of the permit renewal process is that it is
16 a process that allows the Division an opportunity to
17 change course if it comes -- if it's aware of
18 circumstances that suggest mining shouldn't continue in
19 the way it's been permitted, some serious flaw, then the
20 permit renewal is a time to raise that. But the process
21 doesn't lend itself well to a general discussion of
22 either the operations of the mine, or I think as John is
23 suggesting, or the larger issues surrounding water
24 replacement legislation. And I was going to suggest
25 that I think it's important that the water users groups

1 participate effectively in our permitting activities.
2 And currently we're having a permit renewal informal
3 conference, but I think the more effective approach
4 would be twofold; one, a citizen complaint in the event
5 there are contraindications that suggest a bad thing
6 that wasn't anticipated is actually happening which then
7 puts the Division on a duty to do an investigation and
8 satisfy the citizens that we've examined everything that
9 needs to be examined. Kind of puts the onus on the
10 Division. Or, the other is the more general, can we
11 reach an agreement should we have a steering committee
12 for water impacts that meets on an ongoing basis and
13 participates?

14 MR. KIRKHAM: I don't want to speak beyond the mark
15 here, but I think the folks that are involved here have
16 already set up a communication network. We are involved
17 in discussions, they are trying to get things resolved,
18 but in a generic way, separate and apart from this
19 proceeding that's going on here today. And I think the
20 coal operators are willing to participate in those
21 discussions. And in fact, since I participated in what
22 went on up at the legislature, I'm very well aware they
23 made that commitment. So I, you know, I'd like to try
24 and focus on issues that are relevant to this specific
25 proceeding and then, you know, after we go off the

1 record, maybe we can go over in a corner and have a nice
2 little chat about the whole situation.

3 MR. CARTER: Caucus.

4 MR. SMITH: Let me move ahead. A lot of these are
5 meant to be introductory remarks, but we do have
6 specific concerns about the -- I say this is an
7 appropriate place to talk about the process because it's
8 part of the process. And I can understand why
9 Pacificorp wants to stick specifically to issues about
10 their particular permit, but I think it's the process
11 that has been established that is also of concern to
12 us. And the renewal process, we feel that the Division
13 can do a more effective job, has the tools to do a more
14 effective job in their renewal process and should use
15 the, as we put in our written comments, and I don't mean
16 to belabor those or read those or do anything like that,
17 but to use the renewal process as an opportunity to look
18 at benchmarks and see where the water situation really
19 is as compared to where it was thought it was going to
20 be five years previous or 10 years previous, or whenever
21 the permit was originally issued.

22 At the current time this is not done by the
23 Division, and we see this as a failing of the Division,
24 and would hope that this could be corrected.

25 As you pointed out, it is the Division's

1 responsibility to protect at least the environmental
2 issues and that's why we talked about those, and tried
3 to break down where the Division see its responsibility,
4 legal responsibility as compared to the state engineer.
5 And as far as the environmental impacts are the
6 Division's responsibility, we feel that the Division, as
7 we said, can do a better job at that, particularly if
8 the Division would take real data which is being
9 submitted by the mines, including Pacificorp, on water
10 flows and discharges and compare those to the
11 projections that the PHC and the CHIA were made on,
12 which is done somewhat -- I've looked at the most recent
13 PHC, I hope this is recent, dated March 29th, 1993, so
14 there has been some additional new information
15 submitted. We find from our own records that there is a
16 -- that the outflows from the mine, particularly the
17 Deer Creek Mine I'm speaking now, vary widely from year
18 to year. And I can go through what we have as the last
19 -- let's see, I think I have from 1988 -- actually I
20 have beyond that. I'll go from '88 on forward.

21 Acre feet per year, this is discharge from the Deer
22 Creek Mine to the Huntington plant, during 1988 there
23 was 1,770 acre feet discharged. '89, 2008 acre feet
24 discharged. 1990, it was up to 4,552 acre feet
25 discharged. 1991, 3,772. 1992, 1,000 -- I'm sorry,

1 2,547 acre feet. 1993, it was down to 1,289 acre feet.
2 1994, it was again down to 757 acre feet, but then the
3 last year it was over double that. 1995 was 1,973 acre
4 feet.

5 I guess my question is, have those figures been
6 looked at by the Division to determine whether the
7 Division feels like that the -- those types of
8 discharges in to the Deer -- from the Deer Creek Mine
9 into this is only the discharge? We'll talk a minute
10 about the Grimes Wash, Deer Creek Mine discharge into
11 the Huntington Creek drainage from the portal at Deer
12 Creek. Are those figures reviewed? Are they considered
13 by the Division or is that just something we have and
14 may get or you may have and it just kind of sits on a
15 shelf somewhere?

16 MR. CARTER: I personally don't know the answer to
17 that. I mean, I would have to ask our hydrologist in
18 the course of -- you're saying in the course of permit
19 renewal, is the Division looking at historical graphs
20 and drawing new conclusions, or deciding whether it
21 needs to draw new conclusions; is that right?

22 MR. SMITH: That's my question. And whether
23 discharges and flows are something that's -- because
24 there are some fairly dramatic changes. If we look from
25 '94 to '95, that's almost a three-fold change in

1 outflow at that location. And then it's -- the year
2 before it dipped. Whether that -- those changes, as I
3 read the PHC and the CHIA, and I don't pretend to be a
4 hydrologist or geologist, it's is a study state
5 situation. And whether these changes are due to
6 reduction of what the mine's encountering inside the
7 mine, or different management processes or changing in
8 the mining or new areas, you know, it's very interesting
9 to us there would be that kind of a dramatic change in
10 that short of a period. We feel that would be worthy of
11 investigation by the Division.

12 You know, the next question is well, you could
13 always go review it yourself. And again, we say we
14 think that's why we have-- that's why we have the
15 Division of Oil, Gas and Mining, is to protect the water
16 users and the citizens, and to fill that function so we
17 don't need to be the ones on the front line on this.

18 Now, I understand there's a citizen complaint
19 process and we don't need to belabor that and that may
20 sometimes be appropriate. But we also feel this is an
21 appropriate time and it's important for the Division to
22 take a pro active role. A lot of these changes will
23 take decades and I think there's one in here that said
24 would take -- after the mining is completed in 2032,
25 within 10 years the mine will fill up and go back to its

1 normal flows. But that's a fairly large amount of
2 time. Since we're on the issue of discharge maybe we
3 can talk about Grimes Wash. That's another discharge
4 point, I understand, from the Deer Creek Mine. That's
5 in the opposite drainage, it's not in the Huntington
6 Creek drainage, it's in the Cottonwood Creek drainage.
7 And these are records, and I'll be happy to give you
8 copies of these, Jim, so you can have these.

9 MR. CARTER: All right.

10 MR. SMITH: That are kept by the Emery Water
11 Conservancy District. They, a few years ago, decided it
12 was important for them to also do water quality and
13 quantity checking. We took the flows out of Grimes
14 Creek. Again, there's been a lot of changes in those
15 flows. I'm not going to read through every one of
16 these, they are on a monthly basis. But since 1992,
17 flows have been as high as six cubic feet per second
18 which is a pretty large flow in my view, to as low as
19 dry and have varied a lot. They have been lesser in the
20 last while, the last year than they were before, but
21 even as of March of '95 there was a four cubic feet per
22 second flow.

23 It's interesting, sometimes the flows are high
24 during odd times of the year, at least odd if you try to
25 coordinate this with precipitation. For example, in

1 October of 1994, there was a flow of over 3 CFS.
2 October is, you know, typically a fairly low flow time,
3 specifically in washes which is not a perennial stream,
4 and has only become a perennial stream since there's
5 been mining discharged into that. It's truly a wash and
6 that's why it's called a wash. And we'd be happy to
7 submit that information --

8 MR. CARTER: Please do.

9 MR. SMITH: -- to the Division. It's our hope to
10 get the Division to take a more pro active role in water
11 in doing its job. I don't think there's any argument
12 it's the Division's job to look out for the hydrological
13 impacts of mining, to address those, if sources go dry,
14 there's an impact outside the mine area.

15 I guess the question is just how can that best be
16 achieved? And we feel that it can best be achieved
17 through a more pro active role rather than simply
18 looking for complaints from citizens, and to take
19 opportunities like permit renewal to review water
20 information. This does not put any additional burden on
21 the mining companies. They are required to submit
22 information in any event. Obviously the Division may
23 have to ask the mining companies to provide additional
24 analysis, but that's well within the legal purview of
25 the Division to do that during renewal, as I read the

1 regulations, and correct me if I misstate them. You
2 have the right, as we put in our written comments, the
3 Division has the right to require any additional
4 information they find needful or important in their
5 permit renewal. We understand the practice has been to
6 require very little information on permit renewal.
7 Nothing more, I think typically, beyond do you have your
8 insurance, do you have your bonds, how many complaints
9 have you had for mine safety violations? And that's,
10 you know, pretty much the extent of the review. We feel
11 that the times have changed. Mining's changed. The
12 division needs to change its methods to keep up with
13 that, with these changes.

14 You know, we're not mining the same way we were 15
15 or 20 years ago, and the water impacts are much greater
16 now than they were 15 or 20 years ago. We have, as you
17 know, ongoing proceedings, which we won't get into,
18 which involves another fine. We have resolved other
19 ones, as I mentioned, with Pacificorp. In the last few
20 years we resolved another one where we resolved another,
21 I think, proven interference situation with the Plateau
22 Mine. So these are becoming regular events. And I
23 would just hope the Division would understand the
24 relative roles and relative strengths of the Division,
25 the mining companies, and the water users. The water

1 users by far have the less resources.
2 Huntington/Cleveland is a non profit company. The water
3 conservancy district has been involved in some of these ,
4 like Cache Valley, also small governmental entities, and
5 it would provide a, I think, a very unfair and difficult
6 burden on these entities to have to shoulder what we
7 consider to be the role of the Division in enforcing
8 these aspects.

9 We know there's been some back and forth between the
10 Division and your federal counter parts. I don't know
11 where that is now. Can you maybe -- I know this is off
12 the point and I'll beg the indulgence of Pacificorp to
13 get a report on that. I'm almost done with my comments
14 and it would be helpful to have that.

15 MR. CARTER: In a nutshell, the Office of Surface
16 Mining is deferring to the Division's determination on
17 hydrologic balance and so forth. We have not gotten any
18 contraindications from them. So I think this is a
19 primacy program in the State of Utah in implementing the
20 program, so I have received no information.

21 MR. SMITH: Okay. We feel if that's the case, that
22 makes it more critical for the Division to undertake
23 this, what we understand to be an expanded role, but at
24 least expanded to what's been a historic role, even
25 though the legislative authority and power has always

1 been with the Division. And we also believe that the
2 Division, whether it's the Division's responsibility or
3 not, the Division does have responsibility of upholding
4 the Federal Law, whether it's adopted, whether we get
5 the state legislation passed.

6 In fact, we wanted to make it stronger, as you know,
7 and include other types of water use which are critical
8 here. Maybe not critical in West Virginia, but we feel
9 that's another reason that -- another reason is the
10 Federal Law that requires replacement, of why the
11 Division needs to take an expanded role in these
12 situations. We're open to, you know, work groups or any
13 other informal way to try to get this thing resolved so
14 we don't have to come to everybody's permit renewal.
15 We're ready to come to everybody's permit renewal and
16 make the same request and try to continue to impress
17 upon the Division the importance of this. We just
18 perceive -- our bottom line is we perceive a problem we
19 feel needs to be addressed and we feel it's of critical
20 public importance and falls squarely within the role of
21 the Division to do. We have seen some progress in the
22 past, but we feel like we're not there yet.

23 MR. CARTER: Let me ask a question and -- maybe
24 provide some information and ask a question and see who
25 else wants to present anything. It is true, shortly

1 after I took over as Division director we took a look at
2 our permit renewal processes, and I made the
3 administrative determination that during the course of
4 permit renewal we would look at relatively ministerial
5 sorts of aspects. And that our direction to the
6 technical staff would be that they not -- if they
7 identify issues or problems or see trends that require
8 action, to not wait until permit renewal. But part of
9 the problem we had was people are very busy and they
10 come up with something and by the time we got to
11 someone's permit renewal, we had a drawer full of little
12 scraps of notes and 20 things people were saving up for
13 permit renewal. My objective was to handle those as
14 they came up and not saved for later. I just want to
15 explain that. The idea being when we got to permit
16 renewal we knew we had a permit that was entitled to
17 renewal or we had a serious problem and we were already
18 trying to fix it.

19 But as I understand your request, you are saying
20 that you're asking that the Division amend its permit
21 renewal processes to include, if not new findings under
22 the cumulative hydrologic impact assessment, at least a
23 look at new data, comparison with the assessment, and a
24 statement to the effect that nothing's changed or
25 something has and we're doing something about it. I'm

1 asking that question.

2 MR. SMITH: That's really true. And, you know,
3 every special mine is different, every PHC and CHIA you
4 look at is different. Some are based on actual
5 information, some are based on strictly projections if
6 it's a new area of the mine we are going into. But we
7 think at some point those projections and/or expected
8 hydrologic consequences should be validated by the
9 actual data. Are we going in the -- is the hydrologic
10 balance okay like we thought it was going to be when we
11 went and did this, or is it not? As we all know, lots
12 of times projections can be wrong. Many times a mine
13 that was dry can go into a new area and all of a sudden
14 have lots of water. If that wasn't anticipated,
15 obviously we think the PHC and CHIA needs to be revised
16 and there may need to be some additional impacts there
17 to be considered.

18 And that's really what we're hoping to do. We think
19 water, unfortunately like some things, is maybe
20 something that's not -- as you know, the problem may not
21 be as apparent as you go along like some of the other
22 problems. And I have no fault with the Division dealing
23 with problems as they come up, but sometimes, you know,
24 water may be a little more difficult to do that on that
25 sort of a basis, and needs to have a regular review.

1 Because if no one's looking at it, a problem can exist
2 that we don't -- that may not be readily apparent to the
3 Division.

4 MR. CARTER: Okay. Thanks. I think I completely
5 understand your comment on this permit renewal.

6 MR. SMITH: Thank you.

7 MR. CARTER: And renewals generally.

8 John? This is Mr. Johansen.

9 MR. JOHANSEN: I was not aware that all we could
10 talk about was this permit. I'll try to confine some of
11 my comments. Yesterday I spent quite a bit of time with
12 Val Payne and Randy Gainer from Energy West, Utah Fuel
13 and Genwal on this very problem. But I'm going to ask
14 one or two questions from your letter to me. And you
15 say in the letter, before a permit may be issued the
16 operator must have conducted at least a full year's
17 worth of background monitoring of both surface and
18 ground water sources.

19 MR. CARTER: Right.

20 MR. JOHANSEN: How far back are those records
21 available?

22 MR. CARTER: To one year before the date the permits
23 were issued in all our permits.

24 MR. JOHANSEN: When was that done? I'm going back
25 in to the 60's when they started mining.

1 MR. CARTER: You're talking about existing, ongoing
2 mines?

3 MR. JOHANSEN: Do you have those records and are
4 they available to us?

5 MR. KIRKHAM: Mr. Carter, this is -- I realize he
6 would like to have information, but that's not the
7 purpose of this meeting.

8 MR. JOHANSEN: That's what you told me, I couldn't
9 talk about anything else.

10 MR. KIRKHAM: The permit application package had
11 that material in it and it's publicly available.

12 MR. CARTER: Right.

13 MR. JOHANSEN: Where is it?

14 MR. CARTER: We have a copy.

15 MR. JOHANSEN: We don't have it and we'd like to see
16 it.

17 MR. CARTER: There's a copy downstairs and a copy in
18 Price at the Price field office. So we'd be glad to
19 make you copies of all or any part.

20 MR. JOHANSEN: You've answered that question. I
21 want to go clear back. Our problem was when we hit this
22 issue we didn't have the records on hand of what the
23 flows of the springs were. We knew they were there, and
24 we knew we got water out of them, we knew where it
25 went. But this interests me when you said you must have

1 those records and now you are saying there aren't. Now
2 the next question --

3 MR. CARTER: Let me clarify this. For new mines,
4 before a new permit can be issued, we have to have a
5 year of background monitoring when the program went into
6 effect. There were a lot of mines already operating.

7 MR. SMITH: Seems to me this came into being at some
8 point midstream, a lot of these mines.

9 MR. CARTER: That's right.

10 MR. SMITH: And there probably isn't, and I don't
11 want people to leave here, and correct me if I'm wrong,
12 thinking you have all this back before all the mining
13 began.

14 MR. CARTER: That's right, we don't. This law was
15 passed in '76.

16 MR. JOHANSEN: What you are saying is there is no
17 records available, so --

18 MR. CARTER: No.

19 MR. JOHANSEN: Well, that takes that part. We still
20 don't know what -- well, my next question is, are you
21 following up all the time on the monitoring of these
22 springs?

23 MR. CARTER: That's my instruction to the staff,
24 yes.

25 MR. JOHANSEN: So, whenever they applied for that

1 permit, we could go back to that date, see what the
2 water was a year before they got it, and follow it
3 through?

4 MR. CARTER: If they obtained a permit after the
5 start of the Utah program which was in 1983. Right?
6 The interim program? So from '83 forward, that's right.

7 MR. JOHANSEN: You don't have anything before?

8 MR. CARTER: No.

9 MR. JOHANSEN: We don't either.

10 MR. KIRKHAM: I think the fundamental problem here
11 is, and Mr. Smith articulated it very clearly, the water
12 users are trying to get the coal mine division, the
13 division that governs coal mining, to be a water
14 policeman and that isn't their role, so that's why we
15 don't have those records.

16 MR. JOHANSEN: We can't find anybody in this state
17 who will assume that role.

18 MR. KIRKHAM: Well, Mr. Carter isn't the person to
19 address that issue to.

20 MR. JOHANSEN: Well, the hearing's here and I'm
21 here.

22 MR. CARTER: The short answer to your question is an
23 environmental regulatory program and yes, we have all
24 the information the program requires from the beginning
25 of the program which was only 1983. So that's what we

1 have.

2 MR. JOHANSEN: Okay.

3 MR. CARTER: We're not the state engineer and we're
4 not -- we don't maintain other information for other
5 purposes, so that's as far back as we go.

6 MR. JOHANSEN: We're right back to square one and
7 that's why that senate Bill 133 was so important to us.
8 We felt that finally the state was going to assume some
9 authority and say to either you or the state water
10 rights, you've got to do something about it. And it was
11 withdrawn about three days before the end of the
12 session. We didn't have time to find anybody else to
13 sponsor it. We had worked with Demetrick, with all of
14 the people on the hill and they came forth and said yes,
15 we'll do it, we'll consider what you want in it, and
16 then wham. Now, we got one more year of study which is
17 probably necessary, but at the same time we'll have five
18 more years of interference with the water, and I guess
19 that's where we stand. Our problem. And I don't know
20 whether that should be mentioned here or not, but we're
21 really pleased that that bill was introduced, and we
22 were really disturbed when it was pulled out by -- I
23 don't know who, but anyway it was pulled out, and now
24 there's nothing on the books that says DOGM or Utah
25 water rights can do anything different than they have

1 done for the past 10 years, or 20 years. That's the way
2 it is, isn't it?

3 MR. CARTER: We have the program that we did
4 before.

5 MR. JOHANSEN: So there's no point in talking any
6 further.

7 MR. CARTER: We think the program does have the
8 ability to comprehensively address the environmental
9 impacts of mining including hydrologic impacts. We're
10 not sure the coal program contains in it a remedy for
11 impacts to drinking water sources, but we believe that
12 other aspects of state law would allow the Division and
13 the Board to order appropriate remedies in the event
14 they make those factual findings. This is a complex
15 issue of federal law, state law, and it's not easily
16 summed up.

17 But we believe we've got the authority to do
18 everything we need to do under the federal and state
19 programs.

20 MR. JOHANSEN: Then can I make one more comment out
21 of order?

22 MR. CARTER: Okay.

23 MR. JOHANSEN: In reading the forest permit then
24 that you are going to have to adhere to, the forest
25 tells you that you are going to have to be responsible

1 for replacing the wildlife water, livestock water,
2 spring water, and all other water that affects water
3 users; is that right?

4 MR. CARTER: No. That's not right.

5 MR. JOHANSEN: Isn't that what he said? I'm asking
6 you now.

7 MR. KELLY: You're asking me? As I recall, and I
8 haven't read it for some time, it requires --

9 MR. CARTER: Could you identify yourself?

10 MR. KELLY: Dennis Kelly, hydrologist on Manti-LaSal
11 forest. As I recall, that permit states that if the
12 mining operation changes in the flow of a surface water
13 source, they are to replace it.

14 MR. CARTER: Is the word replace? I'd have to defer
15 to the permit itself.

16 MR. JOHANSEN: Let me read it to you.

17 MR. CARTER: Great, that will help.

18 MR. KELLY: Whatever it says.

19 MR. JOHANSEN: Stipulation number 17, which requires
20 the lessee to replace any surface water identified for
21 protection that may be lost or adversely affected by
22 mining operations with water from an alternate source in
23 sufficient quantity and quality to maintain existing
24 repairing habitat, fishery habitat, livestock, wildlife
25 uses, and/or other land uses.

1 MR. KIRKHAM: Can we ask him to tell us what he's
2 reading from? You are reading from a letter --

3 MR. SMITH: He's reading from the stipulations to
4 mine, coal mine lease in the Manti-LaSal forest.

5 MR. CARTER: Okay.

6 MR. REED: Carter Reed, I'm a forest geologist on
7 the Manti-LaSal National Forest. That is a lease
8 stipulation in the lease that's issued by the Bureau of
9 Land Management, and it's a stipulation that the forest
10 service has asked the BLM to put in that lease and we do
11 that routinely.

12 MR. CARTER: That's not a function of state coal
13 law, that's a function of federal forest management
14 law.

15 MR. JOHANSEN: And then I wrote a letter and said I
16 concurred with that. But I'm interpreting other land
17 uses to mean agriculture/domestic/culinary uses will be
18 protected as well. That's what I told them. That's my
19 interpretation of it. They may not accept it. But
20 anyway, that brings me to the point I wanted. If we
21 can't get the state to assume this responsibility, do we
22 have to go to the forest service, the BLM, and the
23 office of surface mining to correct the situation?
24 That's about where we are, because we feel it's
25 important enough that it's got to be corrected. And

1 since the legislature, the office or the Division of
2 Water Rights and your people have said we won't touch
3 it, we want it touched. We want it resolved. We're not
4 concerned about that mining permit as much as having
5 that water replaced. And I just as well say it, we
6 won't back away until it's done.

7 MR. CARTER: Okay. Thank you. Anyone from
8 PacifiCorp?

9 MR. KIRKHAM: Well, it's the other commentators. I'm
10 prepared to respond.

11 MR. CARTER: Do we have any more comments from
12 interested parties who want to provide us some
13 information? Again, we are talking about this permit
14 renewal, and whether or not PacifiCorp should be
15 permitted to continue with the mining operation of Deer
16 Creek, and I think I summarized Mr. Smith's comment
17 which was, essentially, concern about the procedure the
18 Division is using to determine whether or not to approve
19 the renewal. So I think that goes to the renewal
20 itself. Are there any other comments that anyone wants
21 to provide us?

22 MR. KELLY: I'd like to comment to the
23 interpretation of that stipulation, and Mr. Johansen's
24 interpretation may be at variance with how the forest
25 service would interpret that. I'm not in a position to

1 make that interpretation, but perhaps he needs to review
2 that with our forest supervisor to determine how that is
3 going to be interpreted.

4 MR. CARTER: Okay.

5 MR. JOHANSEN: I figured I would, I just wrote the
6 letter day before yesterday.

7 MR. CARTER: Let me add something to the record too,
8 and for the information of those who are here. The
9 Division's -- the permit the Division issues especially
10 on federal lands like forest lands where the minerals
11 are managed by the BLM, is a product of a cooperative
12 agreement between the Department of the Interior and the
13 State of Utah, and the Division acts as a lead agency in
14 formulating the permit conditions and so forth. So, we
15 not only solicit, but rely on the stipulations that are
16 contained in leases, special use applications, or other
17 permits or approvals from other agencies that are part
18 of the overall coal mining operation so that the permit
19 itself is the only document you need to look at to see
20 what all the conditions are going to be. That's what we
21 attempt to do in our lead agency role.

22 So, a permit may well contain a provision for water
23 replacement for a variety of sources, and if I sounded
24 like I was saying no, we'd never do that, that was a
25 missimpression. But I understood the question to be,

1 does the Division's program, does the state's coal
2 program currently provide for the replacement of the
3 list of water sources that you listed, and the answer is
4 no. That's what the legislation was about. But those
5 ends can be achieved and are being achieved through coal
6 permitting through the interplay of the various agencies
7 that are responsible.

8 So to say as a blanket statement there is no
9 protection of water sources, is just not correct. There
10 is, but there's not a replacement requirement as a
11 matter of Utah coal law. This is why I say this is
12 somewhat complicated. There are a number of laws that
13 pertain to coal and surface, all those things. Anything
14 further? Mr. Kirkham?

15 MR. KIRKHAM: If I can just summarize. On behalf of
16 Pacificorp, we haven't heard anything today that
17 indicates that there is any evidence or data to indicate
18 any need for further review of this permit renewal. You
19 know, I'm intrigued by some of the concepts and some of
20 the interpretations I've heard today. It's a little bit
21 of a stretch, but I think what we're really hearing is
22 that some people feel the Division would be required to
23 investigate an automobile accident if it were to occur
24 within the bounds of the permit area. I don't think
25 that's the jurisdiction of the Division. I think the

1 Division's responsibility is to apply and enforce the
2 Coal Mining Act as it has been adopted by the
3 legislature and the -- as the regulations have been
4 adopted.

5 You know, there are a lot of issues that they have
6 raised that they would like the Division to assume
7 jurisdiction over, I don't think that's what the
8 legislature had in mind, so I don't think it should
9 affect this permit renewal.

10 MR. CARTER: All right. Mr. Smith, anything
11 further?

12 MR. JENSEN: I'm going to ask the question, on these
13 permit renewals, if when you reissue them has this
14 always been on a five year basis?

15 MR. CARTER: Yes. That's what the program, the term
16 of a permit under our program is, five years. There's a
17 right to automatic successive renewal in the absence of
18 findings that something, some basic finding that support
19 the permit.

20 MR. JENSEN: Further question related to that is, if
21 that's always been the case, it's five years, what's the
22 basis for that now when there's been as, Craig states,
23 there's been a lot of changes right now? Back
24 historically when you started a mine, you could mine for
25 years. Back, probably the turn of the century, or even

1 1930's or 40's. There's not been as much as you do in a
2 year now with these rules, these types of mining. So if
3 these permits are still being issued the same, you'll
4 only be reviewing the same as you did back in the
5 1940's, every five years. What's the basis for that
6 still being five years? I can see it from coal
7 operators, you know, just the same as I could operating
8 the farm. I wouldn't want to lease a farm unless I
9 could lease it for five years.

10 MR. CARTER: Let me respond to that and this goes
11 right to the administrative determination I made. Coal
12 permits are supposed to be under constant review. We
13 have an extensive inspection and enforcement program.
14 We have inspectors on the site of coal mines all the
15 time.

16 The objective, my objective in implementing this
17 program is to have the permits and the conditions that
18 are going on in the mines under constant review, to not
19 go away for five years and not think about it and then
20 come back and take a snap shot. But instead, to be
21 looking at it, thinking about it all the time, so that
22 if data starts to come back that suggests something is
23 going amiss, we nip it in the bud. We don't wait until
24 the permit renewal, we don't wait at all. We sit down
25 with the operator and say this looks like something,

1 something's happening here that needs to be corrected.
2 So the renewal is really -- we are treating it as kind
3 of a ministerial thing, every five years we check the
4 insurance, make sure they're okay in terms of compliance
5 and other operations and so forth.

6 But the meat of the permit, the environmental
7 impacts of the mining and what's happening in the
8 conditions, ought to be looked at continuously.

9 MR. JENSEN: You said that and I thought that was a
10 good point to bring that out. But anyway, the way it
11 exists now, we're concerned with that, but for that
12 reason, there's a lot happening in five years in the
13 mine. But in the example of Deer Creek Mine, there's a
14 lot of water that's being intercepted in that mine,
15 other mines maybe not as much as that one. Some we're
16 aware of, Huntington Irrigation Company, but in that
17 particular mine there's a lot of water that's being
18 intercepted. But, so it isn't as far removed as a car
19 accident out on the road, I don't think. This is
20 something your mine operations are doing, so you can't
21 be removed from it. So I think that's something that we
22 need to look into. And what we're doing is, I heard
23 this comment also from this group, that you are looking
24 into it and are meeting with the irrigation companies.
25 And that's true, but we're not getting answers as

1 quickly as we'd like to. I think these guys are meeting
2 and have a good objective, but probably can't go further
3 to initiate action. And what we're looking for, at
4 least in the companies down there in the irrigation
5 companies, is we're looking for some adjustment to take
6 care of some of the water that's being intercepted, to
7 get it returned back to the streams that they belong
8 in. And we have had some promises to do that, but we're
9 not seeing action.

10 And we have on some of our boards, we have people
11 with a lot of practical experience in the mines that
12 have been there, and been operating in the Deer Creek
13 Mine area. So they know what is happening in there and
14 they know the pipelines that run through that mine, and
15 they know the water that's being intercepted and know
16 the water is being diverted in some other direction.
17 Some of these things are built in the mine, turn the
18 water other directions other than where we're going.
19 And this is what's happening. We'd like to, you know,
20 get some resolutions there.

21 MR. CARTER: Not to say things too many times, our
22 program would look at whether or not those activities
23 are resulting in material damage to the hydrologic
24 balance. It's a fairly gross analysis of the whole
25 hydrologic system in the area, which is why we have not

1 gotten into attempting detailed --

2 MR. JENSEN: When you speak of the hydrologic
3 balance, you are talking about anything outside of the
4 mine?

5 MR. CARTER: It covers the permit area and adjacent
6 areas. I think that's the terminology in the program,
7 adjacent areas. So if mining is drying up a stream,
8 dries up a stream, that's a significant thing we need to
9 look at. We need to make a determination whether or not
10 that's material damage to the hydrologic balance. But
11 that's been sort of the scope of the review of the
12 regulatory program, and it doesn't address directly the
13 concerns that the water users have expressed in the past
14 about the same quantities of water appearing in
15 different places.

16 I don't know what the environmental impact of that
17 is. It certainly has an impact if it's coming from a
18 place you can't divert it to use it, but I don't know
19 what the environmental impact is. That's what we're
20 supposed to be looking at.

21 MR. SEMBORSKI: Chuck Semborski. One of the
22 important things that hasn't been mentioned at all is
23 the annual reports which the coal companies are required
24 to do. In that annual report we're required to analyze
25 not only the current year, but the past four years and

1 compare that to information on both quantity and quality
2 of both ground water and surface water which Pacificorp
3 has been submitting since we got the permit. And it's
4 one thing that, you know, you don't have to, at the end
5 of the five years, open up an entire permit to look to
6 see if there's any changes because you are getting
7 information on a yearly basis. Not only yearly, but
8 also a quarterly basis.

9 MR. CARTER: Okay. Thank you.

10 MR. JENSEN: One of the things I understood from you
11 also, you could take actions, but you were waiting for
12 somebody, you know, outside, if an outside group would
13 like you to take an action they would have to tell you
14 to do that; is that what you are saying too?

15 MR. CARTER: Run that by me one more time, I'm not
16 sure I understood.

17 MR. JENSEN: Citizen complaint.

18 MR. CARTER: The coal program -- this is something
19 that's not done a lot in Utah, it's done a lot
20 elsewhere. But the coal program provides a process by
21 which folks who are concerned about coal mining impacts
22 can write a letter to the Division saying we're
23 concerned that something's happening at this mine that
24 shouldn't be happening, and that puts the Division on
25 the duty to investigate. And we haven't done very many

1 of these, but the ones we have done, what we do then is
2 work with the citizen to come up with an investigation
3 or an evaluation or something that the citizen can agree
4 will answer the question or solve, resolve the issue.

5 Typically in other areas such as flying rock, the
6 citizen complaint called and said the rock went through
7 the windshield of my car from blasting. But there's a
8 mechanism in the program for people to have concerns,
9 but may not have experts or evidence or testimony, to
10 ask the Division to take a look into an issue and
11 respond to that. And they then have the ability to say
12 that's satisfactory or that's not and move further if
13 they are, you know, not satisfied with the answer.
14 That's all I'm talking about there.

15 MR. JENSEN: That's the doorway then, that we could
16 have as an irrigation company to have you respond to
17 something?

18 MR. CARTER: The reason I mentioned that is only --

19 MR. JENSEN: That's in contradiction to what you
20 said afterwards.

21 MR. CARTER: Was it?

22 MR. JENSEN: I said, is this a contraindication to
23 what you were saying later on in your discussion.

24 MR. CARTER: No. What I was trying to do, I was
25 trying to draw the distinction between the permit

1 renewal process which should be a relatively simple and
2 administrative process, and the process of ongoing
3 inspection and monitoring and reporting that all of the
4 mines undergo. And that is the process, the day-to-day
5 operations, the ongoing operations. That's where
6 citizens are concerned about what's happening. We
7 should hear about that or they should go to the operator
8 first, I would recommend, and if they're not able to get
9 the questions answered, come to us.

10 MR. JENSEN: The thing I didn't want to hear is the
11 forest service distancing themselves. Seems to me like
12 a clear interpretation of the letter Mr. Johansen was
13 reading, the more groups we get to distance themselves
14 from any obligation to do anything, it looks like it
15 really gets hard for an irrigation company or an
16 individual to do anything.

17 MR. CARTER: Each agency has its own tool box, and
18 we have coal regulatory tools that go to the
19 environmental impacts of coal. Forest service has their
20 own tools for surface, managing surface resources. What
21 does not exist is a comprehensive super agency that has
22 all the tools to address everything that has to do with
23 water. That doesn't exist. DEQ looks at quality. The
24 engineer is concerned about rights. Forest is concerned
25 about environmental resources and water resources.

1 We're concerned about environmental impacts. We each
2 have a piece, but there's no super water agency you can
3 take a question to and get your transbasin diversion,
4 water rights, environmental impact and instream flow
5 questions answered by one person. It doesn't exist and
6 that's part of the problem.

7 MR. JOHANSEN: I'd like to ask one more out of order
8 question.

9 MR. CARTER: Okay.

10 MR. JOHANSEN: Back when Peabody was investigating
11 those coal fields, were there any records made by
12 Peabody or this Division pertaining to the springs and
13 the records of water flow in that area?

14 MR. CARTER: What year would that have been?

15 MR. JOHANSEN: Back in the 60's.

16 MR. JENSEN: 1969.

17 MR. CARTER: No.

18 MR. JOHANSEN: I'm interested in records. I've
19 learned the only way we can get what we want is to have
20 records, that's why we're spending a quarter of a
21 million dollars monitoring everything up there.

22 MR. CARTER: In the State of Utah --

23 MR. JOHANSEN: We want to know what's happened. We
24 want to know what water we had, we want to know where it
25 is and then we want it back.

1 MR. KIRKHAM: That has nothing to do with us.

2 MR. LAURISKI: I'm Dave Lauriski, I'm with Energy
3 West. Let me first of all say I'm somewhat, not
4 somewhat, I'm disappointed we've spent a good part of
5 our afternoon on an issue that hasn't been specific to
6 the five year permit renewal for Deer Creek Mine and we
7 have brought a lot of folks in here to hear issues
8 relative to concerns on water in general. I am somewhat
9 taken back by some of the comments that I'm hearing here
10 today since some of those that made the comments were
11 participants in prior decisions on this issue as early
12 as yesterday. And I want to read into the record, and
13 this is also out of order, but it seems this whole
14 meeting has taken that context.

15 MR. CARTER: This is very informal.

16 MR. LAURISKI: This was a meeting held I think
17 yesterday, in which others in this room were
18 participants in. It was the agenda of the Emery County
19 Water Users Commission sponsored by the Emery County
20 Public Lands Council and Utah coal operators. Every
21 agenda item on this particular document has been
22 addressed here today. They included water rights
23 regulated by the Utah State engineer, they included the
24 coal mining statute of regulations regulated by the
25 Division of Oil, Gas and Mining, the specific codes

1 under 40-10 and the R 645 rules. They talked yesterday
2 specifically about coal mining permits, and the Utah
3 coal operators addressed that. They talked about the
4 amendments, proposals sent to the legislature and how
5 they pertain to the Energy Policy Act, what the 1996
6 legislation has tried to accomplish and what will be
7 proposed in 1997.

8 In addition to those issues, the Utah coal operators
9 have agreed to, with the water users and the Land Policy
10 Council in Emery County, to cooperate in a joint effort
11 to study this issue of water. We're here today to
12 discuss a Deer Creek permit issue.

13 And I just want to say, again on the record, this is
14 an ongoing process, Mr. Smith, that we have tried
15 diligently, along with others in Emery county, to find
16 resolution to. You're not the only ones concerned about
17 water, we are too. We live there, same as the rest of
18 the folks here. We have tried and we are working hard
19 to get this matter resolved. Now, how that all applies
20 to Deer Creek, I don't know. But this applies to the
21 coal operators in general, and I thought it was
22 important for the record to know that the coal operators
23 are not sitting by just letting the water go down the
24 wash, per se. We're trying to find a resolution
25 cooperatively with the water users.

1 And so, I hope that when you look at this record for
2 this informal conference, you're able to discern what's
3 relative to Deer Creek and what's relative to the
4 general issues and the real issues that the water users
5 have here.

6 MR. CARTER: Thank you. I feel confident that I
7 can.

8 MR. JOHANSEN: I've got to respond to that.

9 MR. CARTER: Mr. Johansen.

10 MR. JOHANSEN: He's referred to this agenda which
11 the coal mine people brought to us yesterday, which was
12 the Public Land Council, and I have no quarrel with what
13 the coal mine people -- we agreed on a lot of things.
14 And I guess what we're concerned about is, the state
15 itself is not assuming the responsibility, the coal mine
16 people are, the irrigators are.

17 MR. LAURISKI: What does that have to do with me
18 bringing an attorney and folks from our operation up
19 here?

20 MR. JOHANSEN: I didn't call this conference.

21 MR. LAURISKI: That's what I'm asking.

22 MR. JOHANSEN: I was invited to come to it, and
23 we're already here.

24 MR. LAURISKI: Well --

25 MR. JOHANSEN: That conference they are proposing is

1 going to be held and all these things will be discussed
2 in it.

3 Thank you. I'll shut up.

4 MR. CARTER: Okay. I don't think anything needs to
5 be added at this point.

6 MR. SMITH: Let's go ahead and go off the record.

7 MR. CARTER: Let's conclude the informal
8 conference. This, again, was on the permit renewal and
9 we'll conclude. Thank you all. We'll make a
10 determination on this and announce that shortly.

11 (Whereupon the matter was concluded.)
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1 STATE OF UTAH)

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3 COUNTY OF SALT LAKE)

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6 I, Linda J. Smurthwaite, Certified Shorthand
7 Reporter, Registered Professional Reporter, and notary
8 public within and for the county of Salt Lake, State of
9 Utah do hereby certify:

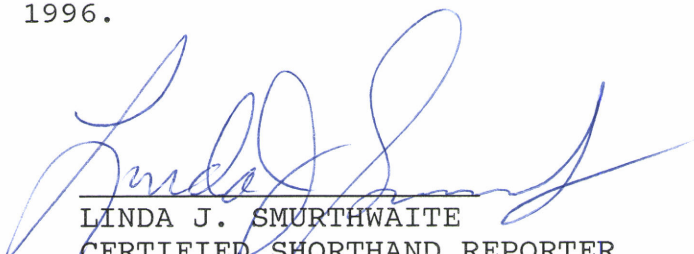
10 That the foregoing proceedings were taken before me
11 at the time and place set forth herein, and was taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction and supervision.

14 That the foregoing pages contain a true and correct
15 transcription of my said shorthand notes so taken.

16 In Witness Whereof, I have subscribed my name this
17 24th day of March, 1996.

18

19

20 
LINDA J. SMURTHWAITE
21 CERTIFIED SHORTHAND REPORTER

22

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24

25



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			wrote [2]	36:15						
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February 20, 1996

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- † Navajo Bar
- ° New Mexico
- Washington, D.C.

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FEB 21 1996

James W. Carter, Esq., Director
Division of Oil, Gas & Mining
Department of Natural Resources
State of Utah
355 West North Temple
III Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Re: Application for Renewal of Coal Mining Permit
for Deer Creek Mine Act/015/018

Dear Jim:

This letter will convey the written comments of Huntington-Cleveland Irrigation Company ("Huntington-Cleveland") to the above-referenced Application for Renewal. As you are aware, Huntington-Cleveland holds the majority of water rights in the Huntington Creek drainage. Huntington Cleveland along with other water users has grown increasingly concerned over impacts of coal mining on water quality and water quantity.

We believe that mine permit renewal should be an opportunity for the Division of Oil, Gas & Mining ("DOGM") to review actual water data gathered by the Permittee during mining operation, to determine if projected hydrological impact in the "Probable Hydrologic Consequences" ("PHC") and the "Cumulative Hydrologic Impact Analysis" ("CHIA") are accurate.

As you know, prior to mining the PHC and CHIA are used to predict if there will be any hydrologic impact outside of the permit area. However, these are projections only, and may or may not be correct. After actual mining has occurred, actual data can then be used to determine if the PHC and CHIA were accurate. Permit renewal is an excellent opportunity for such a review. We are particularly concerned because we believe transbasin water diversions are occurring within the Deer Creek Mine.

Jaames W. Carter, Esq.
February 20, 1996
Page 2

We would note that R645-303-232.250 allows DOGM to require "Additional, revised, or updated information" as part of the permit renewal. Thus, regulatory authority to require actual water data and if necessary analysis of such data exists.

We would respectfully request that actual water quantity and quality data sufficient to determine whether transbasin diversions are occurring and the accuracy of the PHC and CHIA be required for this and all subsequent mine permit renewals. We also request the opportunity to meet with you in an informal conference setting to further discuss this issue.

Thank you for your attention to this matter and continued interest in water issues related to mining.

Yours truly,



J. Craig Smith

cc: Huntington-Cleveland Irrigation Company



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

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Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

February 26, 1996

Facsimile Transmittal
(801) 237-2775

Newspaper Agency
Legal Desk
135 South Main
Salt Lake City, Utah 84111

Re: Notice of Informal Conference

Enclosed is a Notice of Informal Conference before the Division of Oil, Gas and Mining, Department of Natural Resources, State of Utah.

It is requested that this notice be published ONCE ONLY, no later than Sunday, March 3, 1996. In the event that said notice cannot be published by this date, please notify me immediately by calling 538-5340.

Upon completion of this request, please send proof of publication and statement of cost to the Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, Utah 84180-1203.

Sincerely,

Victoria Ann Bailey
Executive Secretary

vb
Enclosure
NEWSLETT.NEW



TRANSACTION REPORT

P. 01

FEB-26-96 MON 01:11 PM

SEND (M)

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
FEB-26	01:10 PM	2372775	1'20"	2	SEND	(M) OK	052	

TOTAL 1M 20S PAGES: 2



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February 26, 1996

Facsimile Transmittal
(801) 237-2775

Newspaper Agency
Legal Desk
135 South Main
Salt Lake City, Utah 84111

Re: Notice of Informal Conference

Enclosed is a Notice of Informal Conference before the Division of Oil, Gas and Mining,
Department of Natural Resources, State of Utah.



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DIVISION OF OIL, GAS AND MINING

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Salt Lake City, Utah 84180-1203
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801-538-5319 (TDD)

February 26, 1996

Facsimile Transmittal
(801) 637-2716

Sun Advocate
Emery County Progress
76 West Main
P. O. Box 870
Price, Utah 84501

Re: Notice of Informal Conference

Enclosed is a notice of Informal Conference from the Division of Oil, Gas and Mining, Department of Natural Resources, State of Utah.

It is requested that this notice be published ONCE ONLY as soon as possible, but no later than Tuesday, March 5, 1995, in both the Sun Advocate and Emery County Progress. In the event that said notice cannot be published by this date, please notify me immediately by calling 538-5340.

Upon completion of this request, please send proof of publication and statement of cost to the Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, Utah 84180-1203.

Sincerely,

Victoria A. Bailey
Executive Secretary

vb
Enclosure
NEWSLETT.NEW



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P. 01

FEB-26-96 MON 01:09 PM

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DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
FEB-26	01:07 PM	18016372716	1' 26"	2	SEND	(M) OK	051	

TOTAL 1M 26S PAGES: 2



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February 26, 1996

Facsimile Transmittal
(801) 637-2716

Sun Advocate
Emery County Progress
76 West Main
P. O. Box 870
Price, Utah 84501

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Enclosed is a notice of Informal Conference from the Division of Oil, Gas and Mining,
Department of Natural Resources, State of Utah.

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P.01

FEB-26-96 MON 02:50 PM

SEND (M)

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
FEB-26	02:49 PM	2689271	1' 42"	2	SEND	(M) OK	056	

TOTAL 1M 42S PAGES: 2



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DIVISION OF OIL, GAS AND MINING

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UTAH DIVISION OF OIL, GAS AND MINING
FACSIMILE COVER SHEET

DATE: 2-26-96
FAX #: 268-9271
ATTN: Linda Smirthwaite
COMPANY: Intermountain Court Reporters
FROM: Vicki Baile
DEPARTMENT: State of Utah - Div. Oil, Gas & Mining
NUMBER OF PAGES BEING SENT (INCLUDING THIS ONE): 2

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FEB-26	01:44 PM	PRICE FIELD OFFICE	1' 15"	2	SEND	(M) OK	053	
TOTAL				1M 15S	PAGES:	2		



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UTAH DIVISION OF OIL, GAS AND MINING
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DATE: 2-26-96

FAX # 637-8603

ATTN: Stephanie

COMPANY: PFO / DOGM

FROM: Vicki Bailey

DEPARTMENT: SLC - DOGM

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UTAH DIVISION OF OIL, GAS AND MINING
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DATE: 2-26-96
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ATTN: Stephanie
COMPANY: PFO / DOGM
FROM: Vicki Bailey
DEPARTMENT: SLC - DOGM
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DIVISION OF OIL, GAS AND MINING

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James W. Carter
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801-538-5319 (TDD)

UTAH DIVISION OF OIL, GAS AND MINING
FACSIMILE COVER SHEET

DATE: 2-26-96
FAX #: 268-9277
ATTN: Linda Smirthwaite
COMPANY: Intermountain Court Reporters
FROM: Vicki Bailey
DEPARTMENT: State of Utah - Div. Oil, Gas & Mining
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MESSAGES:

Any questions, give me a call.

Thanks,

Vicki

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BEFORE THE DIVISION OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

---ooOoo---

IN THE MATTER OF THE FIVE-YEAR
PERMIT RENEWAL FOR THE DEER
CREEK MINE, PACIFICORP,
EMERY COUNTY, UTAH

NOTICE OF INFORMAL
CONFERENCE

CAUSE NO. ACT/015/018

---ooOoo---

THE STATE OF UTAH TO ALL PERSONS INTERESTED IN THE ABOVE
ENTITLED MATTER.

Notice is hereby given that the Division of Oil, Gas and Mining ("Division"), will conduct an informal conference on Wednesday, March 20, 1996, beginning at 1:30 p.m., in the Boardroom of the Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 520, Salt Lake City, Utah.

The informal conference will be conducted in accordance with the Utah Code Ann. § 40-10-13 (1953, as amended) and Utah Admin. R. 645-300-112 and R. 645-300-123.

Objections to PacifiCorp's five-year permit renewal for the Deer Creek Mine were received, and an informal conference will be conducted to accept written or oral statements and any relevant information pertaining to this permit renewal from any party to the conference.

Persons interested in this matter may participate pursuant to Utah Admin. R. 645-300-123. The application, subsequent public comments, and request for informal conference may be inspected in the office of the undersigned, 3 Triad Center, Suite 350, 355 West North Temple, Salt Lake City, Utah, (801) 538-5340.

Pursuant to the Americans with Disabilities Act, persons requiring auxiliary communicative aids and services to enable them to participate in this conference should call Vicki Bailey at 538-5340, at least three working days prior to the hearing date.

DATED this 20th day of February, 1996.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING


James W. Carter, Director

BEFORE THE DIVISION OF OIL GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

---oo0oo---

IN THE MATTER OF THE FIVE-YEAR	:	
PERMIT RENEWAL FOR THE DEER	:	FINDINGS OF FACT,
CREEK MINE, PACIFICORP, EMERY	:	CONCLUSIONS OF LAW
COUNTY, UTAH	:	AND ORDER

CAUSE NO. ACT/015/018

---oo0oo---

On March 20, 1996, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the five-year permit renewal for the Deer Creek Mine operated by PacifiCorp pursuant to a protest to the permit renewal and request for informal conference filed by Huntington-Cleveland Irrigation Company on February 21, 1996. The following individuals attended:

Presiding:	James W. Carter Director
Petitioner:	J. Craig Smith, for Huntington-Cleveland Irrigation Company
Permittee:	Blake Webster John Kirkham

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner in connection with this informal hearing, and on information in the files of the Division.

FINDINGS OF FACT

1. Notice of this hearing was properly given.
2. PacifiCorp has timely filed a complete and accurate application for renewal of its Deer Creek Mine permit.
3. Petitioner requested generally that, before the permit renewal is approved, the Division review water monitoring data collected since original approval of the Deer Creek permit to determine whether hydrologic impacts other than those projected by the Probable Hydrologic Consequences and Cumulative Hydrologic Impact Analysis documents are occurring. Petitioner also specifically requested that the Division determine whether "transbasin diversions are occurring" at the Deer Creek Mine.
4. The Division regularly reviews water monitoring information collected from the Deer Creek Mine to detect anomalies in the water quality and quantity sampled at the monitoring points. The water monitoring information required from the Deer Creek Mine is now, and has at all relevant times been, current and in compliance with both the requirements of the Utah Coal Regulatory Program and the permit requirements. The Division did not specifically request additional, revised or updated information from the Deer Creek Mine at the time of, or as a pre-requisite to, approval of the Deer Creek Mine five-year permit renewal.
5. There exists in the record no factual basis for any of the findings listed under R645-303-233.110 through 233.160 which would prevent renewal of the Deer Creek Mine permit.

CONCLUSIONS OF LAW

1. PacifiCorp is entitled to renewal of its Deer Creek Mine permit in the absence of one or more of the findings at R645-303-233.110 through 233.160.

ORDER

NOW THEREFORE, it is ordered that:

1. PacifiCorp's Deer Creek Mine permit is renewed for a term of five years effective 2-7-96.
2. The Petitioner may appeal the Findings of Fact and/or the Conclusions and Order to the Board of Oil, Gas and Mining by filing said appeal within 30 days of the date of this Order, in accordance with statutory and regulatory requirements.

SO DETERMINED AND ORDERED this 31st day of May, 1996.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING



James W. Carter, Director

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy
of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
for Cause No. ACT/015/018 to be mailed first class, postage
prepaid, this 4 day of June, 1996, to the following:

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HUNTINGTON UT 84528

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ROBERT MORGAN STATE ENGR
UTAH DIV OF WATER RIGHTS
DEPT OF NATURAL RESOURCES
C A P I T O L M A I L

BRENT BRADFORD DPTY DIR
OFFICE OF THE EX DIR
DEPARTMENT OF ENVIR QUALITY
C A P I T O L M A I L

ROBERT VALENTINE DIR
UTAH DIV OF WILDLIFE RESOURCES
C A P I T O L M A I L

MAX J EVANS DIR
UTAH DIV OF STATE HISTORY
C A P I T O L M A I L

DAVID T TERRY DIR
SCHOOL & INSTNL TRUST LANDS
ADM
C A P I T O L M A I L

RONALD P PARKIN
STATE MINE INSPECTOR
COLLEGE OF EASTERN UTAH
451 EAST 400 NORTH
PRICE UT 84501

ALEX JORDAN
UTAH MINING ASSOC
KEARNS BLDG
136 SOUTH MAIN STE 825
SALT LAKE CITY UT 84101

RANDOLPH GAINER ENVR CHR
GENWAL RESOURCES INC
P O BOX 1420
HUNTINGTON UT 84528

CAROLYN B WRIGHT RSCH ANLST
OFFICE OF PLANNING & BUDGET
STATE PLANNING COORD OFF
C A P I T O L M A I L

MIKE SCHWINN DST ENGR
U S ARMY CORPS OF ENGINEERS
1403 SOUTH 600 WEST
BOUNTIFUL UT 84010

WILLIAM P YELLOWTAIL JR
ENVIR PROTECTION AGENCY
999 18TH ST
DNVR PL STE 500
DENVER CO 80202-2405

TED STEWART EX DIR
DEPARTMENT OF NATURAL
RESOURCES
B U I L D I N G M A I L

DAVE D LAURISKI CHRMN
739 EAST 2900 SOUTH
BOX 7
PRICE UT 84501

DUANE K JENSEN PRES
BOARD OF DIRECTORS
HUNTINGTON CLEVELAND IRR CO
BOX 395
CLEVELAND UT 84518

DARREL V LEAMASTER PE
DISTRICT MANAGER
CASTLE VALLEY SPEC SERV DST
P O BOX 877
CASTLEDALE UT 84513

MENCO COPINGA PRES
NORTH EMERY WATER USERS ASSOC
BOX 418
ELMO UT 84521

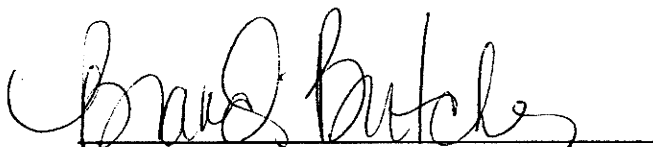
SHERREL WARD
BOARD OF DIRECTORS
HUNTINGTON CLEVELAND IRR CO
BOX 395
CLEVELAND UT 84518

VARDEN WILLSON SEC
HUNTINGTON CLEVELAND IRR CO
55 NORTH MAIN
HUNTINGTON UT 84528

JAY MARK HUMPHREY
EMERY WATER CONSERVANCY DIST
P O BOX 998
CASTLE DALE UT 84513

EUGENE JOHANSEN
EMERY WATER CONSERVANCY DIST
P O BOX 856
CASTLE DALE UT 84513

LEE LEMMON VP
BOARD OF DIRECTORS
HUNTINGTON CLEVELAND IRR CO
P O BOX 1183
HUNTINGTON UT 84528

A handwritten signature in cursive script, appearing to read "Bruce Butcher", is written over a horizontal line.

BEFORE THE DIVISION OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

---ooOoo---

IN THE MATTER OF THE FIVE-YEAR
PERMIT RENEWAL FOR THE DEER
CREEK MINE, PACIFICORP,
EMERY COUNTY, UTAH

NOTICE OF INFORMAL
CONFERENCE

CAUSE NO. ACT/015/018

---ooOoo---

THE STATE OF UTAH TO ALL PERSONS INTERESTED IN THE ABOVE
ENTITLED MATTER.

Notice is hereby given that the Division of Oil, Gas and Mining ("Division"), will conduct an informal conference on Wednesday, March 20, 1996, beginning at 1:30 p.m., in the Boardroom of the Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 520, Salt Lake City, Utah.

The informal conference will be conducted in accordance with the Utah Code Ann. § 40-10-13 (1953, as amended) and Utah Admin. R. 645-300-112 and R. 645-300-123.

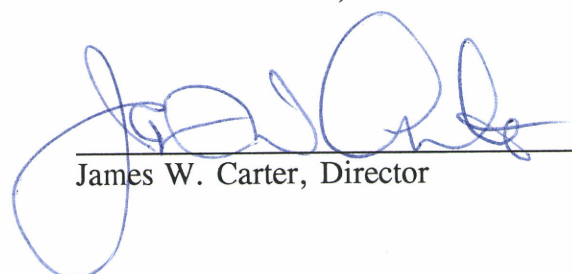
Objections to PacificCorp's five-year permit renewal for the Deer Creek Mine were received, and an informal conference will be conducted to accept written or oral statements and any relevant information pertaining to this permit renewal from any party to the conference.

Persons interested in this matter may participate pursuant to Utah Admin. R. 645-300-123. The application, subsequent public comments, and request for informal conference may be inspected in the office of the undersigned, 3 Triad Center, Suite 350, 355 West North Temple, Salt Lake City, Utah, (801) 538-5340.

Pursuant to the Americans with Disabilities Act, persons requiring auxiliary communicative aids and services to enable them to participate in this conference should call Vicki Bailey at 538-5340, at least three working days prior to the hearing date.

DATED this 20th day of February, 1996.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING



James W. Carter, Director

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fee the following services are available. Consult postmaster for rates and check boxes for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

VAL PAYNE
SR ENGR ENGR
PACIFIC CORP
P O BOX 310
HUNTINGTON UT 84528

4. Article Number
P 074 976 532

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED

5. Signature - Address
X

6. Signature - Agent
X *[Signature]*

7. Date of Delivery **FEB 29 1996**

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Mar. 1988 U.S.G.P.O. 1988-212-803 DOMESTIC RETURN RECEIPT
DQGM PR Notice of Inf. Conf. ACT/015/018

DOGMA DR Notice of Inf. Conf. ACT/015/018

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fee the following services are available. Consult postmaster for rates and check boxes for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

J CRAIG SMITH
NIELSEN & SENIOR
60 E SOUTH TEMPLE #1100
SALT LAKE CITY UT 84111

4. Article Number
P 074 976 533

Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED

5. Signature - Address
X

6. Signature - Agent
X *[Signature]*

7. Date of Delivery

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Mar. 1988 U.S.G.P.O. 1988-212-803 DOMESTIC RETURN RECEIPT
DOGMA DR Notice of Inf. Conf. ACT/015/018

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing NOTICE OF INFORMAL CONFERENCE for Cause No. ACT/015/018 to be mailed by certified mail, postage prepaid, this 27~~th~~ day of February, 1996, to the following:

VAL PAYNE SR ENVR ENGR ✓
PACIFICORP
P O BOX 310
HUNTINGTON UT 84528

J CRAIG SMITH ✓
NIELSEN & SENIOR
1100 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

Notices were mailed first class, postage prepaid to the following:

JAMES FULTON CHIEF
OFFICE OF SURFACE MINING
RECLAMATION & ENFORCEMENT
1999 BROADWAY STE 3320
DENVER CO 80202-5733

MARK BAILEY AREA MGR
PRICE RIVER RESOURCE AREA
BUREAU OF LAND MANAGEMENT
125 SOUTH 6 WEST
PRICE UT 84501

ROBERT HENRICKS GROUP LEADER
MINERAL RESOURCES
BUREAU OF LAND MGT
P O BOX 45155
SALT LAKE CITY UT 84145-0155

MARK PAGE RGNL ENGR
UT DIV OF WATER RIGHTS
453 SOUTH CARBON AVE
P O BOX 718
PRICE UT 84501-0718

DAVE ARIOTTI DST ENGR
SOUTHEASTERN UTAH HEALTH DEPT
128 SOUTH 100 EAST
P O BOX 800
PRICE UT 84501

BILL BATES HABITAT MGR
455 WEST RAILROAD AVE
PRICE UT 84501

GARY L ROEDER DIST CON
NATURAL RESRS SOIL CONSV SERV
350 NORTH 400 EAST
PRICE UT 84501

JOSEPH JENKINS EXEC DIR
DEPT OF COMMUNITY & ECON DEV
324 SOUTH STATE ST STE 500
SALT LAKE CITY UT 84111

BRYANT ANDERSON
EMERY CNTY PLNNG & ZNG
P O BOX 297
CASTLE DALE UT 84513

BILL HOWELL EXEC DIR
SOUTHEASTERN UTAH ASSOC OF
LOCAL GOVERNMENTS
P O BOX 1106
PRICE UT 84501

JANETTE S KAISER FOREST SUP
U S FOREST SERVICE
MANTI LA SAL NATIONAL FOREST
599 WEST PRICE RVR RD
PRICE UT 84501

ROBERT D WILLIAMS
ASST FLD SUP
U S FISH & WILDLIFE SERV
145 EAST 1300 SOUTH STE 404
SALT LAKE CITY UT 84115

ROBERT MORGAN STATE ENGR
UTAH DIV OF WATER RIGHTS
DEPT OF NATURAL RESOURCES
C A P I T O L M A I L

BRENT BRADFORD DPTY DIR
OFFICE OF THE EX DIR
DEPARTMENT OF ENVIR QUALITY
C A P I T O L M A I L

ROBERT VALENTINE DIR
UTAH DIV OF WILDLIFE RESOURCES
C A P I T O L M A I L

MAX J EVANS DIR
UTAH DIV OF STATE HISTORY
C A P I T O L M A I L

DAVID T TERRY DIR
SCHOOL & INSTNL TRUST LANDS
ADM
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RONALD P PARKIN
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COLLEGE OF EASTERN UTAH
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ALEX JORDAN
UTAH MINING ASSOC
KEARNS BLDG
136 SOUTH MAIN STE 825
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GENWAL RESOURCES INC
P O BOX 1420
HUNTINGTON UT 84528

CAROLYN B WRIGHT RSCH ANLST
OFFICE OF PLANNING & BUDGET
STATE PLANNING COORD OFF
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BOUNTIFUL UT 84010

WILLIAM P YELLOWTAIL JR
ENVIR PROTECTION AGENCY
999 18TH ST
DNVR PL STE 500
DENVER CO 80202-2405

TED STEWART EX DIR
DEPARTMENT OF NATURAL
RESOURCES
B U I L D I N G M A I L

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739 EAST 2900 SOUTH
BOX 7
PRICE UT 84501

DUANE K JENSEN PRES
BOARD OF DIRECTORS
HUNTINGTON CLEVELAND IRR CO
BOX 395
CLEVELAND UT 84518

DARREL V LEAMASTER PE
DISTRICT MANAGER
CASTLE VALLEY SPEC SERV DST
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CASTLEDALE UT 84513

MENCO COPINGA PRES
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EUGENE JOHANSEN
EMERY WATER CONSERVANCY DIST
P O BOX 856
CASTLE DALE UT 84513

LEE LEMMON VP
BOARD OF DIRECTORS
HUNTINGTON CLEVELAND IRR CO
P O BOX 1183
HUNTINGTON UT 84528



143 SOUTH MAIN ST.
P.O. BOX 45838
SALT LAKE CITY, UTAH 84145
FED. TAX I.D. # 87-0217663

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DIV OF OIL, GAS & MINING 355 WEST NORTH TEMPLE 3 TRIAD CENTER #350 SLC, UT 84180	D5385340L-07	02/29/96 ACT/015/018

ACCOUNT NAME	
DIV OF OIL, GAS & MINING	
TELEPHONE	INVOICE NUMBER
801-538-5340	TL2Q8202161
SCHEDULE	
START 02/29/96 END 02/29/96	
CUST. REF. NO.	
ACT/015/01	
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NOTICE OF INFORMAL CONFERENCE CA	
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NOTICE OF INFORMAL
CONFERENCE
CAUSE NO. ACT/015/018
BEFORE THE DIVISION OF
OIL, GAS AND MINING
DEPARTMENT OF NATURAL
RESOURCES, STATE OF UTAH

IN THE MATTER OF THE FIVE-YEAR
PERMIT RENEWAL FOR THE DEER
CREEK MINE, PACIFICORP, EM-
ERY COUNTY, UTAH.

THE STATE OF UTAH TO ALL PER-
SONS INTERESTED IN THE ABOVE
ENTITLED MATTERS.

Notice is hereby given that
the Division of Oil, Gas and Min-
ing ("Division") will conduct an
informal conference on
Wednesday, March 20, 1996,
beginning at 4:30 P.M., in the
Boardroom of the Division of Oil,
Gas and Mining, 355 West North
Temple, 3 Triad Center, Suite
350, Salt Lake City, Utah.

The informal conference will
be conducted in accordance
with the Utah Code Ann. ss 40-
10-13 (1993, as amended) and
Utah Admin. R. 645-300-112 and
R. 645-300-123.

Objections to PacificCorp's
five-year permit renewal for the
Deer Creek Mine were re-
ceived, and an informal confer-
ence will be conducted to ac-
cept written or oral statements
and any relevant information
pertaining to this permit renew-
al from any party to the confer-
ence.

Persons interested in this mat-
ter may participate pursuant to
Utah Admin. R. 645-300-123. The
application, subsequent public
comments, and request for in-
formal conference may be in-
spected in the office of the un-
dersigned, 3 Triad Center, Suite
350, 355 West North Temple, Salt
Lake City, Utah, (801) 538-5340.

Pursuant to the Americans
with Disabilities Act, persons re-
quiring auxiliary communica-
tive aids and services to enable
them to participate in this con-
ference should call Vicki Bailey
at 538-5340, at least three work-
ing days prior to the hearing
date.

DATED THIS 26th day of Febru-
ary, 1996.

STATE OF UTAH
DIV. OF OIL, GAS AND MINING
/s/ James W. Carter, Director
2Q820210

AFFIDAVIT OF PUBLICATION

NEWSPAPER AGENCY CORPORATION LEGAL BOOKKEEPER, I CERTIFY THAT THE ATTACHED
ADVERTISEMENT OF NOTICE OF INFORMAL CONFERENCE CA FOR
DIV OF OIL, GAS & MINING WAS PUBLISHED BY THE NEWSPAPER AGENCY
CORPORATION, AGENT FOR THE SALT LAKE TRIBUNE AND DESERET NEWS, DAILY NEWSPAPERS
PRINTED IN THE ENGLISH LANGUAGE WITH GENERAL CIRCULATION IN UTAH, AND PUBLISHED
IN SALT LAKE CITY, SALT LAKE COUNTY IN THE STATE OF UTAH.

PUBLISHED ON START 02/29/96 END 02/29/96

SIGNATURE Joanne Mooney

DATE 02/29/96



THIS IS NOT A STATEMENT BUT A "PROOF OF PUBLICATION"
PLEASE PAY FROM BILLING STATEMENT.



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

February 26, 1996

Facsimile Transmittal
(801) 237-2775

Newspaper Agency
Legal Desk
135 South Main
Salt Lake City, Utah 84111

Re: Notice of Informal Conference

Enclosed is a Notice of Informal Conference before the Division of Oil, Gas and Mining, Department of Natural Resources, State of Utah.

It is requested that this notice be published **ONCE ONLY**, no later than Sunday, March 3, 1996. In the event that said notice cannot be published by this date, please notify me immediately by calling 538-5340.

Upon completion of this request, please send proof of publication and statement of cost to the Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, Utah 84180-1203.

Sincerely,

Victoria Ann Bailey
Executive Secretary

vb
Enclosure
NEWSLETT.NEW



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* TRANSACTION REPORT *
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State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

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Salt Lake City, Utah 84180-1203
801-538-5340
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February 26, 1996

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(801) 237-2775

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Legal Desk
135 South Main
Salt Lake City, Utah 84111

Re: Notice of Informal Conference

Enclosed is a Notice of Informal Conference before the Division of Oil, Gas and Mining,
Department of Natural Resources, State of Utah.



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

February 26, 1996

Facsimile Transmittal
(801) 637-2716

Sun Advocate
Emery County Progress
76 West Main
P. O. Box 870
Price, Utah 84501

Re: Notice of Informal Conference

Enclosed is a notice of Informal Conference from the Division of Oil, Gas and Mining, Department of Natural Resources, State of Utah.

It is requested that this notice be published ONCE ONLY as soon as possible, but no later than Tuesday, March 5, 1995, in both the Sun Advocate and Emery County Progress. In the event that said notice cannot be published by this date, please notify me immediately by calling 538-5340.

Upon completion of this request, please send proof of publication and statement of cost to the Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, Utah 84180-1203.

Sincerely,

Victoria A. Bailey
Executive Secretary

vb
Enclosure
NEWSLETT.NEW



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State of Utah
 DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt	355 West North Temple
Governor	3 Triad Center, Suite 350
Ted Stewart	Salt Lake City, Utah 84180-1203
Executive Director	801-538-5340
James W. Carter	801-358-3940 (Fax)
Division Director	801-538-5319 (TDD)

February 26, 1996

Facsimile Transmittal
 (801) 637-2716

Sun Advocate
 Emery County Progress
 76 West Main
 P. O. Box 870
 Price, Utah 84501

Re: Notice of Informal Conference

Enclosed is a notice of Informal Conference from the Division of Oil, Gas and Mining,
 Department of Natural Resources, State of Utah.

- Craig Smith

- PacifiCorp has been a good corporate citizen
- Process is biggest concern

★ - Division should do a more detailed analysis of changes to hydrologic balance during permit renewal

- Division has not compared submitted data with CHIA

Ex: Deer Creek
mine outflows vary widely - has Division analyzed this? Does it change anything? Does DWR attempt to rationalize it?

- Permit says mine will fill up in 10 yrs & will return to historical flows, that's a long time

- Grimes Creek - much variability
in flows - GCFS to
dry

→ DDM should be more proactive
in making new determinations
at the time of permit renewal

★ → Needs a systematic, regular review
of water data against
CHIA

★ → Is the annual report the
thing?